

FILED

COPY

BRIAN VOGEL, SBN 167493

brian@bvogel.com

THE LAW OFFICES OF BRIAN A. VOGEL, PC

770 County Square Drive, Suite 104

Ventura, CA 93003

Telephone: (805) 654-0400

Facsimile: (805) 654-0326

2012 AUG -6 PM 1:42

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

Attorney for Plaintiffs

DENNY D. FIELDS AND ALETHIA M. ALVARADO

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

DENNY D. FIELDS, an individual, and
ALETHIA M. ALVARADO, an
individual,

Plaintiffs,

vs.

CITY OF SAN BUENAVENTURA;
SAN BUENAVENTURA POLICE
DEPARTMENT; POLICE CHIEF KEN
CORNEY, an individual; OFFICER
CRAIG KELLY, an individual;
OFFICER JOEL KLINE; an individual,
and DOES 1-10, inclusive,

Defendants.

Case No. **CV 12-6739** - GAF
(mex)

COMPLAINT FOR DAMAGES

Plaintiff Fields

1. 42 U.S.C. § 1983
(4th and 14th Amendments -
Excessive Use of Force)
2. 42 U.S.C. § 1983
(4th and 14th Amendments -
Unlawful Seizure/False Arrest and
Detention)
3. Monell Related Claims
on 42 U.S.C. § 1983 Claims
4. Assault
5. Battery
6. Cal. Civil Code § 52.1
7. Negligent Infliction of Emotional
Distress
8. Intentional Infliction of Emotional
Distress

Plaintiff Alvarado

9. 42 U.S.C. § 1983 (4th
Amendment - Warrantless Entry)

10. *Monell* Related Claims
on 42 U.S.C. § 1983 Claims
11. Trespass
12. Negligence
13. Invasion of Privacy

DEMAND FOR JURY TRIAL

INTRODUCTION

1. This is a complaint for money damages by Plaintiffs arising under 42 U.S.C. §§ 1983 and 1988, and supplemental state law claims actionable under California Civil Code § 52.1 and California Code of Civil Procedure, § 526a. Plaintiffs seek redress for deprivation of their rights, privileges and immunities, secured by the Fourth and Fourteenth Amendments to the United States Constitution.

JURISDICTION AND VENUE

2. Subject matter jurisdiction for this action is conferred upon this Court pursuant to 28 U.S.C. §§1331 and 1343, as it arises under 42 U.S.C. §1983.

3. The acts complained of arose in the Central District of California. Therefore, venue properly lies here pursuant to 28 U.S.C. § 1391. Venue in this Court is also proper pursuant to 28 U.S.C. §1391(b)(1) in that one or more Defendants resides in or has its principal place of business in the Central District of California.

JURISDICTIONAL PREREQUISITES

Plaintiffs have fully complied with *California Government Code* section 910 *et seq.* by timely filing claims with Defendant County of Ventura and timely filing this

lawsuit thereafter.

PARTIES

4. Plaintiff DENNY D. FIELDS ("Plaintiff Fields"), at all times mentioned herein, was, and is, a resident of Ventura, Ventura County, California.

Plaintiff ALETHIA M. ALVARADO ("Plaintiff Alvarado"), at all times mentioned herein, was, and is, a resident of Ventura, Ventura County, California.

5. At all times material herein, Defendant City of San Buenaventura also known as Ventura, ("Ventura" or "CITY") was, and is, a public entity authorized by law to establish certain departments, responsible for enforcing the laws and protecting the welfare of the citizens of the City of Ventura. At all times mentioned herein, Defendant CITY was, and is, ultimately responsible for overseeing the operation, management, and supervision of the San Buenaventura or Ventura Police Department. Defendant CITY is liable for the negligent and reckless acts of all of these aforementioned parties, personnel and entities, as described herein.

6. At all times material herein, the San Buenaventura Police Department also known as the Ventura Police Department ("VPD"), was, and is, a public entity responsible for providing law enforcement services for Defendant CITY.

7. At all times mentioned herein, Defendant VPD was, and is, the duly authorized law enforcement agency in and for the City of Ventura, California, and was, and is, responsible for overseeing the operation, management, and supervision of the VPD employees who patrol in Ventura, California, and is liable for the negligent and reckless

1 acts of all employees, personnel, and entities, including, but not limited to, any VPD
2 officer Does, inclusive.

3
4 8. At all times material herein, Defendant CHIEF KEN CORNEY ("CORNEY"),
5 was the police chief of Defendant CITY, and was responsible for supervising, operating,
6 and managing VPD and was further responsible for the policies, customs, and procedures
7 used at VPD.
8

9 9. At all times material herein, Defendant Officer CRAIG KELLY ("KELLY") was,
10 and is, a natural person, residing in the Central District of California and acting as a duly
11 appointed police officer employed by Defendant CITY at Defendant VPD which is
12 located in the Central District of California.
13

14 10. At all times material herein, Defendant Officer JOEL KLINE ("KLINE") was, and
15 is, a natural person, residing in the Central District of California and acting as a duly
16 appointed police officer employed by Defendant CITY at Defendant VPD which is
17 located in the Central District of California.
18

19 11. At all times material herein, upon information and belief, some of Defendant
20 DOES 1-10 were and are natural persons, residing in the Central District of California
21 and acting as duly appointed VPD officers employed by Defendants CITY and VPD
22 which are located in the Central District of California, acting at all relevant times within
23 the scope of their employment with CITY and/or VPD ("OFFICER DOES"). Upon
24 information and belief, Defendant OFFICER DOES were each responsible in some
25 manner for the injuries and damages alleged herein. The true names and identities of
26
27
28

1 Defendant OFFICER DOES are presently unknown to Plaintiff. Upon information and
2 belief, such employees include, *inter alia*, VPD officers who were involved in any
3 manner in the incidents alleged in this Complaint. Plaintiffs will amend this Complaint to
4 allege their true names and capacities when they are ascertained. Plaintiffs are informed,
5 believe and based thereon allege that each Defendant OFFICER DOE herein is in some
6 manner responsible for the injuries and damages suffered by Plaintiffs.
7

8
9 12. Upon information and belief, Defendants DOES 1-10 were each responsible in
10 some manner for the injuries and damages alleged herein. The true names and identities
11 of Defendants DOES 1-10 are presently unknown to Plaintiffs. At all relevant times
12 herein Defendants DOES 1-10 were employees and/or agents of CITY and/or VPD,
13 acting at all relevant times within the scope of their employment with CITY and/or VPD.
14 Defendant DOES 1-10 include, *inter alia*, VPD police officers or supervising employees
15 and/or agents who were involved in any manner in the incidents alleged in this
16 Complaint. Plaintiffs will amend this Complaint to allege their true names and capacities
17 when they are ascertained. Plaintiffs are informed, believe, and based thereon allege that
18 each Defendant DOE herein is in some manner responsible for the injuries and damages
19 suffered by Plaintiffs.
20
21
22

23 GENERAL ALLEGATIONS

24
25 13. This action is brought under Title 42 U.S.C. §§1983, 1988, and the Fourth and
26 Fourteenth Amendments of the United States Constitution and pursuant to the general
27 laws of the United States. Plaintiff FIELDS alleges that he was assaulted, battered, bitten
28

1 and tased with excessive force and then falsely arrested and detained by Defendants.

2 Plaintiff ALVARADO alleges that she was the victim of a warrantless entry by police
3 officers into her residence who caused property damage during their entry and search and
4 invaded her privacy.
5

6 14. At all times relevant to the facts alleged herein, defendant officers, and each of
7 them, including Defendants KELLY, KLINE and OFFICER DOES, were responsible for
8 the unlawful conduct and resulting injury because they personally participated in the
9 conduct, acted jointly and in concert with others who did so, or authorized, acquiesced, or
10 failed to take action to prevent the unlawful conduct. Each said defendant was acting in
11 the course and scope of their employment and acting under color of law.
12

13 15. All non-municipal defendants, including Defendants KELLY, KLINE and
14 OFFICER DOES, inclusive are being sued in their individual and official capacities. At
15 the time of the acts complained, each non-municipal defendant was a duly appointed VPD
16 officer employed as such by Defendants CITY and VPD. At the time of the acts
17 hereinafter complained of, each said defendant acted in the course and scope of such
18 employment and acted under color of law. Each non-municipal defendant failed and
19 refused, with deliberate indifference to Plaintiffs, to intervene to stop the unlawful
20 conduct, wrote materially false descriptions of the conduct, and otherwise ratified the
21 conduct that occurred by agents and officers of the VPD.
22

23 16. At all material times, municipal defendants, including CITY, VPD, CHIEF KEN
24 CORNEY, and some of the DOES 1-10 were at all times responsible for the hiring,
25
26
27
28

1 training, supervision, and discipline of other defendants, and were responsible for
2 violation of Plaintiffs' rights.

3
4 17. At all material times, each defendant was individually and jointly engaged in
5 tortious activity, resulting in the deprivation of Plaintiffs' constitutional rights and other
6 harm.

7
8 18. Plaintiffs are informed and believe, and on such information and belief allege that,
9 at all times mentioned herein, each of the non-municipal defendants was the agent and
10 employee of Defendants CITY and the VPD and, in doing the things herein mentioned,
11 were acting within the scope of their authority as such agents and employees with the
12 permission and consent of their co-defendants.

13
14 19. Plaintiffs are informed and believe that each defendant sued herein was
15 responsible in some manner for the events as hereinafter described, and proximately
16 caused injuries and damages to Plaintiffs.

17
18 20. In committing the acts and/or omissions alleged herein, all defendants acted under
19 color of authority and/or color of law.
20

21 **FACTUAL ALLEGATIONS**

22 **Plaintiff DENNY D. FIELDS**

23 21. On Christmas day, December 25, 2011, at approximately 9:00 p.m., Plaintiff
24 FIELDS drove over to the residence of Plaintiff ALVARADO which is located at 9413
25 Petit Circle, Ventura, CA 93004. The residence is located on a cul-de-sac which opens
26 onto Petit Avenue.
27
28

1 22. Plaintiff FIELDS and Plaintiff ALVARADO are former boyfriend and girlfriend.
2 They have two children together who were ages five and thirteen at the time of the
3 incident. Plaintiff FIELDS went to ALVARADO's residence on December 25, 2011 in
4 order to give Christmas presents to his children.
5

6 23. While Plaintiff FIELDS approached Plaintiff ALVARADO's residence, he noticed
7 several Ventura Police Department ("VPD") officers talking to persons on Petit Circle on
8 the other side of the cul-de-sac. Plaintiff FIELDS went into ALVARADO's residence
9 and, seeing that no one was home yet, waited inside for his children to arrive.
10

11 24. Approximately 10 minutes after Plaintiff FIELDS went into the residence, the
12 doorbell rang four times in a row. Plaintiff FIELDS answered the door and observed that
13 there were four or five VPD officers and a canine at the front door.
14

15 25. Plaintiff is informed and believes that two of these officers were Defendant
16 KELLY and KLINE. The others are not known to him and therefore have been included
17 in this complaint as OFFICER DOES.
18

19 26. One officer asked Plaintiff FIELDS to step outside. Plaintiff FIELDS answered
20 "no" because he knew he had done nothing wrong and remained just inside the front door.
21 He asked the officers if they would explain to him what was going on.
22

23 27. One officer told Plaintiff FIELDS that they were looking for a stolen iPad and that
24 the GPS signal indicated that it was in the residence. Plaintiff ALVARADO's residence
25 is part of a duplex, so she shares one wall with another residence. At that point, Plaintiff
26 FIELDS informed the police officers that the residence was not his but that his children
27
28

1 lived there and that he was waiting there for them to come home so that he could give
2 them their Christmas presents.

3
4 28. One officer asked him who was present inside. Plaintiff FIELDS informed him
5 that it was just him.

6
7 29. At that point, one officer told Plaintiff FIELDS, words to the effect of, "You better
8 stop fucking delaying our investigation." Plaintiff FIELDS responded that he was not and
9 that he just wanted to know what was going on. One officer asked Plaintiff FIELDS if he
10 had identification to which he answered "yes". They asked if he was on probation or
11 parole to which he answered "no". Then another officer stated words to the effect of,
12 "You are delaying our fucking investigation and we will arrest you right now for that."
13

14 30. Plaintiff FIELDS gave them his identification which they took and radioed in on a
15 walkie-talkie. While they were doing this, Plaintiff FIELDS informed them that he was
16 going to call his lawyer to let him know what was happening. He showed the police his
17 cell phone as he was saying this. Plaintiff FIELDS had been previously arrested and
18 charged with possessing drugs for sale in Ventura County Superior Court, Case No.
19 2010016379, and his case was pending for trial at this time. There was no consent to
20 search condition imposed as a condition of his release from bail.
21

22
23 31. During this conversation, Plaintiff FIELDS was helpful, and he never tried to shut
24 the door on them or indicated that he was going to. Regardless, one officer had his foot
25 wedged in the doorway. The door opens inward into the residence. The officer had his
26 foot firmly planted inside the threshold to the residence preventing Plaintiff FIELDS from
27
28

1 shutting the door throughout the initial encounter.

2 32. Simultaneously, while one officer was radioing in Plaintiff FIELDS' name and
3 Plaintiff FIELDS was dialing his lawyer's number on his cell phone, another officer who
4 Plaintiff FIELDS is informed and believes is named Craig Kelly said, words to the effect
5 of, "What was his name again? I know him from previous arrests!"
6

7 33. At that point, Defendants KELLY, KLINE and the other officers rushed Plaintiff
8 FIELDS while he was standing directly inside the doorway of the ALVARADO
9 residence. The officers broke the glass bottom of the front door while doing this. The
10 front door struck Plaintiff FIELDS in his chest and shoulder and sent him back, making
11 him off balance.
12

13 34. The first officer inside immediately hit Plaintiff FIELDS with his fist (right fist on
14 left side of face). Plaintiff FIELDS fell back straight down onto the ground. The officers
15 had a K9 dog that came into the residence with them.
16

17 35. Plaintiff FIELDS thinks he may have lost consciousness for a moment when he hit
18 the ground which is a hard, linoleum floor. Immediately, four of the officers got on top of
19 Plaintiff FIELDS and pummeled him. Plaintiff FIELDS was hit by a baton twice on the
20 side of head. One of the officers punched Plaintiff FIELDS in his face 6-7 times in a row.
21

22 36. During the entire duration of the attack on Plaintiff FIELDS by the officers,
23 Plaintiff FIELDS did not strike out, rather, he attempted to protect himself by covering
24 his head with his hands. He also yelled, words to the effect of, "What are you guys doing
25 - I didn't do anything!"
26
27
28

1 37. While he was on his back on the ground, the officers tased Plaintiff FIELDS with
2 darts approximately 6-7 times. The K9 dog bit Plaintiff FIELDS on his right front calf
3 also while he was on the ground.
4

5 38. While this was occurring, Plaintiff FIELDS heard one of the police officers say,
6 words to the effect of, "Shoot him, shoot him, shoot this motherfucker!" When Plaintiff
7 FIELDS heard this, he flipped over onto his stomach to protect himself. When he was on
8 his stomach, the officers continued to punch and kick him.
9

10 39. The officers also tased him 7-10 times in the back with darts. This caused Plaintiff
11 FIELDS to urinate on himself.
12

13 40. While Plaintiff FIELDS was being beaten on the ground, he continually called for
14 help. The officers told him to quit resisting, but he was not resisting. He told the officers
15 that he was not resisting but they continued to beat him nonetheless.
16

17 41. The officers handcuffed Plaintiff FIELDS while he was laying prone on the floor
18 and searched him. After Plaintiff FIELDS was handcuffed, while still laying on the floor
19 on his stomach, one officer kicked him in his left side told him to shut up. Then, they
20 lifted him up.
21

22 42. Plaintiff FIELDS recalls that he was stumbling, but Plaintiff FIELDS is unsure if
23 he stumbled because of the tasing or if they put cuffs on his ankles as well. The officers
24 dragged Plaintiff FIELDS to a police vehicle which was parked in the street directly
25 outside the ALVARADO residence. There were many more officers on the scene by the
26 time Plaintiff FIELDS was taken to the hospital.
27
28

1 43. When Plaintiff FIELDS was in the police car, one officer asked whether the
2 officers had searched him inside the residence, to which another officer stated "yes" and
3 the second officer ordered that he be searched a second time. Plaintiff FIELDS was then
4 snatched out of police car and thrown on the ground on the asphalt. One officer placed
5 his knee on Plaintiff FIELDS' neck while he was on the ground, and they searched him
6 again. Plaintiff FIELDS suffered a cut on his forehead from hitting the asphalt.
7

8
9 44. While outside, Plaintiff FIELDS continued to call for help. The officers told him
10 to shut up. Both searches turned up nothing. Plaintiff FIELDS heard one of the officers
11 say "book him" and so Plaintiff FIELDS requested that he go to the hospital to get
12 treated.
13

14 45. Plaintiff FIELDS was placed again in the police car. VPD Officer Henderson
15 drove Plaintiff FIELDS to the Ventura County Medical Center Emergency Room for
16 treatment.
17

18 46. While Plaintiff FIELDS was in the ER being treated, VPD Officer Jackson came
19 into Plaintiff FIELDS' area and said to Plaintiff FIELDS, words to the effect of, "you
20 piece of shit - how dare you? You're just a nasty person. How could you do that to
21 somebody." Plaintiff FIELDS responded that he did not know what the Officer Jackson
22 was talking about. Officer Jackson told Plaintiff FIELDS that he had broken one of the
23 officer's hands. Plaintiff FIELDS denies breaking an officer's hand or otherwise harming
24 any of the officers who attacked him. Plaintiff FIELDS stated to Officer Jackson that the
25 only way an officer could have broken his hand during the altercation was when he was
26
27
28

1 beating Plaintiff FIELDS' face. Officer Jackson stated words to the effect of "yeah,
2 whatever" and walked out. Plaintiff FIELDS suffered a broken nose, among other
3 injuries, as a result of the beating.
4

5 47. Another detective came in and took many pictures of Plaintiff FIELDS' injuries.

6 A short time later, the doctor came in and told the detective that Plaintiff FIELDS needed
7 a CAT scan before the detective interviewed him. The detective refused to wait and spent
8 at least five minutes questioning Plaintiff FIELDS before calling the doctor back in,
9 thereby intentionally delaying important diagnostic procedures in a potentially life
10 threatening situation.
11
12

13 48. Plaintiff FIELDS observed that one officer actually informed a nurse at the ER that
14 the bite Plaintiff FIELDS suffered from the K9 dog was not a dog bite and to just wipe it
15 and it would be fine. The nurse thankfully insisted that it was a dog bite and said that the
16 wound needed stitches and Plaintiff FIELDS needed a tetanus shot. Plaintiff FIELDS'
17 injuries also included, but were not limited to, a nasal fracture, taser wounds, lacerations,
18 abrasions, nerve damage and pain in his torso, as well as suffering from a limp.
19
20

21 49. Plaintiff FIELDS was read his Miranda rights at the hospital. Plaintiff FIELDS
22 was treated at the ER until early in the morning of Monday, December 26, 2011. Then he
23 was taken to the county jail at approximately 5:00 a.m. and booked. Officer Henderson
24 informed the deputies at the jail that Plaintiff FIELDS was acting peacefully and did not
25 show any aggression whatsoever.
26

27 50. Plaintiff FIELDS was placed in Administrative Segregation and denied bail. The
28

1 bail was set at \$230,000. He was told he would have to wait until he went to court to post
2 bail. The bail bondsmen were not allowed to see Plaintiff FIELDS. The bondsman was
3 told that the only person who could see him was an attorney.
4

5 51. On Tuesday night, December 27, 2011, at 11:57 p.m., jail personnel took his
6 fingerprints again. Plaintiff FIELDS went to court at 1:30 p.m. on Wednesday, December
7 28, 2011. The district attorney rejected the case and declined to press charges. Plaintiff
8 FIELDS was then then released at around 9 p.m. on December 28, 2011. The basis for
9 his release was insufficient grounds for making a criminal complaint against him.
10

11 52. Shortly before Plaintiff FIELDS' release, two sergeants and three deputies came
12 into his cell and reshackled Plaintiff FIELDS. They brought him into a conference room
13 located at the jail in release area. The Ventura Police Department Assistant Chief, Quinn
14 Fenwick, and City of Ventura Risk Management Representative, Ellis Green, were in the
15 conference room waiting for Plaintiff FIELDS. The sergeants and deputies placed
16 Plaintiff FIELDS in the room with Mr. Fenwick and Mr. Green then left and shut the
17 door.
18

19 53. Mr. Fenwick and Mr. Green introduced themselves. They began by saying words
20 to the effect of, "Sorry this happened. We wish things could have turned out a little
21 differently, but we can't change the hands of time. What's done is done. We're just here
22 trying to make things better." Mr. Fenwick stated words to the effect of, "I don't know
23 what's going on, but I heard you have a case pending with our department. What I would
24 like to do right now is clear what happened on Christmas. Even though one of our
25
26
27
28

1 officers got hurt, we are willing to forget about this. We won't file against you if you
2 don't file against us but basically as of right now I'd like to know what we can do to
3 make your Christmas better."
4

5 54. Mr. Green stated words to the effect of "Not to downplay your injuries. I'd like to
6 make your Christmas better too." Mr. Green asked Plaintiff FIELDS, "How much do you
7 get paid?" Plaintiff FIELDS told them he made \$250-300 a day as a deck hand on the
8 fishing boat.
9

10 55. Mr. Green then offered Plaintiff FIELDS \$500 per day for Plaintiff FIELDS'
11 incarceration time plus one extra day, plus any presents that his children wanted, and in
12 addition, a lump sum of \$5,000. Mr. Green told Plaintiff FIELDS words to the effect of
13 "You can call me, I can start your money tomorrow." Mr. Green gave Plaintiff FIELDS
14 his card at this time.
15

16 56. Mr. Fenwick then asked Plaintiff FIELDS how he was going to get home. Mr.
17 Fenwick offered to give Plaintiff FIELDS a drive to the ALVARADO residence which
18 Plaintiff FIELDS accepted. Mr. Fenwick gave Plaintiff FIELDS his cell phone to use to
19 call Alethia ALVARADO to let her know she did not have to pick him up at the jail. All
20 three went in Mr. Green's white Ford Escape together.
21

22 57. Plaintiff FIELDS sat in the front seat. During the ride, Mr. Fenwick stated words
23 to the effect of, "Let this go because if you get a lawyer, your lawyer is going to pay his
24 investigators \$10,000 to do this and that and then you'll walk away with less. Better to
25 take what we offer you." Plaintiff FIELDS declined and stated that the officers should be
26
27
28

1 held accountable for what they did to Plaintiff FIELDS.

2 58. When they arrived at Plaintiff ALVARADO's residence, Plaintiff ALVARADO
3 came out of her residence. In front of Plaintiff ALVARADO, Mr. Fenwick and Mr.
4 Green stated to Plaintiff FIELDS words to the effect of, "Think about what we told you.
5 We're just trying to make things right."
6

7
8 **Plaintiff Alethia Avarado**

9 59. On Christmas day, December 25, 2011, at approximately 11:45 p.m., Plaintiff
10 ALVARADO returned home with her two children to her rented residence. As she got
11 out of her car, she was immediately approached by her next door neighbor, Christine
12 Garza, who asked if Plaintiff ALVARADO's children could come to her house for a bit.
13 Plaintiff ALVARADO was following her neighbor to her side of the duplex when she
14 observed that her front door panes had been broken and that her home was in disarray.
15

16 60. Ms. Garza explained to Plaintiff ALVARADO that earlier in the evening she had
17 heard yelling and banging around. She saw an ambulance and police officers outside of
18 Plaintiff ALVARADO's house. Ms. Garza told Plaintiff ALVARADO that she observed
19 that the police had taken Plaintiff FIELDS out of her home and away in a police car.
20
21

22 61. One neighbor informed Plaintiff ALVARADO that she observed that the police
23 were inside Plaintiff ALVARADO's home from approximately 9:30 p.m. until 11:00 p.m.
24

25 62. The front door to Plaintiff ALVARADO's home was closed and locked. Two of
26 Plaintiff ALVARADO's glass door panes had been kicked out. No one was inside. She
27 found a note left on the door by a VPD Corporal, Casey Sutherland, merely stating that
28

1 she needed to call the VPD watch commander about her door.

2 63. When Plaintiff ALVARADO went into her home she observed the following:

3
4 There were papers and dirt from a poinsettia plant all over the floor; her glass table had
5 been thrown 20 feet away from where it had been and was on its side; a vase filled with
6 roses in it was on the floor broken; there was blood splattered on the walls, on her
7 massage therapy shelf, on her massage sheets, on her calendar, and her steam cleaner box
8 had blood running down the side of it; her massage chair which was in its case had been
9 thrown over by the Christmas tree, 15 feet away from where it had originally been; and
10 her massage table which was also in its case had been thrown on the ground.
11

12
13 64. Plaintiff ALVARADO also noticed blood smears and drops on her carpet and on
14 her tree skirt, 20 feet away from where she believes the altercation occurred. Plaintiff
15 ALVARADO saw blood smeared all the way down her hallway and also on her
16 daughter's door jam.
17

18 65. In her daughter's bedroom, she observed that there were clothes and pillows
19 thrown off the beds onto the floor. The light had been left on in the bathroom. Plaintiff
20 ALVARADO saw that the doors of her outside shed were open when usually they are not.
21 Plaintiff ALVARADO saw that her children's closet drawers were open when usually
22 they are not.
23

24
25 66. In Plaintiff ALVARADO's bedroom, she observed that her chair that had clothes
26 on it had been knocked over and there were pieces of a wire rack that had been knocked
27 over. She saw that the pillows on her bench had been thrown off and were on the floor.
28

1 She observed that her bed sheets had been pulled up as if someone had checked under
2 mattress.
3

4 67. In Plaintiff ALVARADO's kitchen, she observed that there was blood on a kitchen
5 towel. She saw that the light had been turned on in her garage and that there was blood
6 by the light switch. It was clear from Plaintiff ALVARADO's observations that the VPD
7 officers who entered her house had thoroughly searched it.
8

9 68. Plaintiff ALVARADO went to the Ventura County Medical Center Emergency
10 Room at approximately 1:00 a.m. When she walked out of her home, she was approached
11 by two VPD officers in her driveway. These officers verified Plaintiff ALVARADO's
12 identity and asked her for phone number. They asked her if she knew what was going on.
13 She answered that she did not.
14

15 69. The officers informed her that earlier during the evening of December 25, 2011,
16 that they had been searching for a stolen iPad which was "GPSed" to "this geographical
17 location." They stated that they were in the process of doing a canvassing of her
18 neighborhood to find the iPad when the altercation with Plaintiff FIELDS had occurred.
19 They asked her if she knew about an iPad. She said "no".
20
21

22 70. These officers then asked her if they could search her home. She said, words to
23 the effect of, "No. It is clear you have already searched my residence." One of the
24 officers said that they had not searched it, but rather, they had just secured it. Plaintiff
25 ALVARADO informed them that it looked otherwise because of the fact that everything
26 had been moved around in her home. The officers did not respond to this but said it
27
28

1 would really help their investigation if they could come inside and search. She told them
2 "no" again.

3
4 71. She told them she was leaving to go to the Emergency Room to see Plaintiff
5 FIELDS. The officers then told her that one of their officers had been badly injured by
6 Plaintiff FIELDS. They told her that she would not be able to see him, that she seemed
7 upset and that she shouldn't drive, obviously trying to dissuade her from going to the
8 hospital. One officer handed her a business card at that time.

9
10 72. At the hospital, a VPD Sergeant told Plaintiff ALVARADO that there had been a
11 ping-pong ball that could be pinpointed to location around where her residence is located and
12 that they went to search for the stolen object when the altercation with Plaintiff FIELDS
13 had occurred. The Sergeant told Plaintiff ALVARADO that one officer was badly
14 injured and currently in surgery because Plaintiff FIELDS had bitten him.

15
16
17 73. The Sergeant told Plaintiff ALVARADO that Plaintiff FIELDS had been arrested
18 for mayhem for trying to remove a body part and resisting an officer. She asked him,
19 "resisting for what?" and, "What were you doing at my house?" The Sergeant would not
20 answer these questions and said that a report would eventually be filed but that it would
21 be awhile before it would be filed. She replied that "all of this doesn't make sense" and
22 added that the officers had no reason to be at her home. Plaintiff ALVARADO then
23 asked Sergeant if he knew who Plaintiff FIELDS was. The Sergeant answered "no."
24
25
26 74. Plaintiff ALVARADO told the Sergeant that she thought the officers were
27 following him because of a prior search of Field's residence which had produced nothing.
28

1 The Sergeant said, "that is your opinion."

2 75. On Wednesday, December 28, 2011, Plaintiff FIELDS called Plaintiff
3 ALVARADO from VPD Assistant Chief Quinn Fenwick's cell phone. He told Plaintiff
4 ALVARADO that Mr. Fenwick would be driving him to Plaintiff ALVARADO's house
5 from the jail and that he and City of Ventura Risk Management Representative, Ellis
6 Green, wanted to talk to Plaintiff ALVARADO. When they arrived Plaintiff
7 ALVARADO overheard them tell Plaintiff FIELDS to "think about what we told you."
8 Mr. Fenwick stated to Plaintiff ALVARADO, "We're just trying to make things right"
9 and asked her how she was doing.
10

11 76. On Thursday, December 29, 2011, VPD Assistant Chief Quinn Fenwick showed
12 up at Plaintiff ALVARADO's door at around 10:30 a.m. Mr. Fenwick asked Plaintiff
13 ALVARADO whether Plaintiff FIELDS was there. Mr. Fenwick stated words to the
14 effect of, "I'm not here to start any trouble. I'm just here because we told Denny last
15 night that we would follow up with him today and talk to him."
16

17 77. Mr. Fenwick asked Plaintiff ALVARADO whether she had gotten the note about
18 her door and stated, "Whatever it costs, we'll pay for it." Mr. Fenwick also told Plaintiff
19 ALVARADO that if there were any problems to direct them to him and that he would
20 take care of it. Mr. Fenwick told Plaintiff ALVARADO that although he was going to a
21 funeral that day, that he would take any calls from Plaintiff FIELDS.
22

23 ///

24 ///

FIRST CLAIM FOR RELIEF

42 U.S.C. § 1983

(4th and 14th Amendments - Excessive Use of Force)

Plaintiff FIELDS Against Defendants KELLY, KLINE and OFFICER DOES

78. Plaintiffs incorporate by reference and reallege each and every allegation contained in paragraphs 1 through 77 of this Complaint, as fully set forth herein *verbatim*.

79. This action arises under 42 U.S.C. §§ 1983 and 1988, the United States Constitution, and common law principles. By engaging in the conduct described hereinabove, Defendants KELLY, KLINE and OFFICER DOES, were acting or pretending to act, under the color of state law as police officers employed by Defendant VPD, and violated Plaintiff FIELDS' civil rights afforded to him under the United States Constitution, including privileges and immunities secured to Plaintiff FIELDS by the Constitution of the United States, namely, Plaintiff FIELDS' right to be free from excessive and unreasonable force in violation of his rights protected under the Fourth Amendment.

80. As a direct and proximate result of Defendants' wrongful conduct described hereinabove, Plaintiff FIELDS suffered physical and emotional injuries, including but not limited to, a dog bite which required stitches and a tetanus shot, a nasal fracture, taser wounds, lacerations, abrasions, nerve damage and pain in his torso, as well as suffering from a limp. He also suffered financial injuries.

81. Plaintiff FIELDS has suffered special and general damages as allowable under

1 federal law in an amount to be proven at trial. These injuries and damages are ongoing.

2 82. Plaintiff is informed, believes, and based thereon alleges that in engaging in the
3
4 conduct alleged herein, Defendants KELLY, KLINE and OFFICER DOES acted with the
5 intent to injure, vex, annoy and harass Plaintiff FIELDS, and subjected Plaintiff FIELDS
6 to cruel and unjust hardship in conscious disregard of Plaintiff FIELDS' rights with the
7
8 intention of causing Plaintiff FIELDS injury and depriving him of his constitutional
9 rights.

10 83. As a result of the foregoing, Plaintiff FIELDS seeks exemplary and punitive
11 damages against Defendants KELLY, KLINE and OFFICER DOES.
12

13 84. Further, as a result of the foregoing, Plaintiff FIELDS seeks an award of
14 reasonable attorneys' fees and costs according to proof, pursuant to 42 U.S.C. §1988.
15

16 **SECOND CLAIM FOR RELIEF**

17 **42 U.S.C. § 1983**

18 **(4th and 14th Amendment Unreasonable Search and Seizure/**

19 **False Arrest and Detention)**

20 **Plaintiff FIELDS Against Defendants KELLY, KLINE and OFFICER DOES**
21 **85.**

22 Plaintiffs incorporate by reference and reallege each and every allegation
23 contained in paragraphs 1 through 77 of this Complaint, as fully set forth herein *verbatim*.
24

25 86. Plaintiff brings this cause of action under 42 U.S.C. § 1983, as against Defendants
26 KELLY, KLINE and OFFICER DOES.

27 87. This action arises under 42 U.S.C. §§ 1983 and 1988, the United States
28

1 Constitution and common law principles. By engaging in the conduct described
2 hereinabove, Defendants KELLY, KLINE and OFFICER DOES were acting or
3 pretending to act, under the color of state law as police officers employed by Defendant
4 VPD, and violated Plaintiff FIELDS' civil rights afforded to him under the United States
5 Constitution, including privileges and immunities secured to Plaintiff FIELDS by the
6 Constitution of the United States, namely, Plaintiff FIELDS' right: (1) to be free from
7 unreasonable search and seizure and false arrest and detention in violation of his rights
8 protected under the Fourth and Fourteenth Amendments; (2) his right to be free from
9 abuse of process as protected by the Fourth Amendment, (3) his right to be free from
10 malicious prosecution as protected by the Fourth Amendment, and (4) his right to be free
11 from a conspiracy to falsify evidence of the crimes of resisting arrest and battery on a
12 police officer and thereafter prosecute Plaintiff in violation of his rights protected under
13 the Fourth and Fourteenth Amendments.
14

15
16
17
18 88. As a direct and proximate result of Defendants and Does' wrongful conduct
19 described hereinabove, Plaintiff FIELDS suffered physical, emotional and financial
20 injuries.
21

22 89. Plaintiff FIELDS has suffered special and general damages as allowable under
23 federal law in an amount to be proven at trial. These injuries and damages are ongoing.
24

25 90. Plaintiff is informed, believes and based thereon alleges that, in engaging in the
26 conduct alleged herein, Defendants KELLY, KLINE and OFFICER DOES acted with the
27 intent to injure, vex, annoy and harass Plaintiff FIELDS, and subjected Plaintiff FIELDS
28

1 to cruel and unjust hardship in conscious disregard of Plaintiff FIELDS' rights with the
2 intention on the part of the Defendants and Does of thereby depriving Plaintiff FIELDS
3 of his liberty and legal rights and otherwise cause Plaintiff FIELDS' injury.
4

5 91. As a result of the foregoing, Plaintiff FIELDS seeks exemplary and punitive
6 damages against Defendants KELLY, KLINE and OFFICER DOES.
7

8 92. Further, as a result of the foregoing, Plaintiff FIELDS seeks an award of
9 reasonable attorneys' fees and costs according to proof, pursuant to 42 U.S.C. §1988.
10

11 THIRD CLAIM FOR RELIEF

12 *Monell Related Claims on 42 U.S.C. § 1983 Claims*

13 **Plaintiff FIELDS Against Defendants CITY, VPD, CHIEF CORNEY and DOES.**

14 93. Plaintiffs incorporate by reference and reallege each and every allegation
15 contained in paragraphs 1 through 77 of this Complaint, as fully set forth herein *verbatim*.
16

17 94. Plaintiff FIELDS brings this cause of action under 42 U.S.C. § 1983, as against
18 municipal Defendants CITY, VPD, CHIEF CORNEY and DOES.
19

20 95. Defendants KELLY, KLINE and OFFICER DOES' violations of Plaintiff
21 FIELDS' Fourth and Fourteenth Amendment rights to be free from excessive use of force
22 and unlawful seizure and deprivation of liberty, as set forth herein, were the direct and
23 proximate results of the Defendants CITY, VPD, CHIEF CORNEY and DOES'
24 maintaining longstanding customs, policies, practices and/or procedures which tolerate
25 and condone Defendants KELLY, KLINE and OFFICER DOES' violations, set forth
26 hereinabove and below.
27
28

1 96. These longstanding customs, policies, practices and/or procedures, include, but are
2 not limited to, Defendants' standard operating procedures as well as accepted practices.

3
4 97. Said customs, policies, practices and/or procedures include, *inter alia*: an ongoing
5 pattern of condoning and having a deliberate indifference towards citizens' constitutional
6 rights in connection with the following acts committed by VPD officers: (1) the use of
7 excessive force or violence, including but not limited to the use of tactics and weapons,
8 including tasers, in a reckless and unreasonable manner; (2) unconstitutional seizures and
9 deprivations of liberty; (3) the conforming of false testimony, evidence or reports by all
10 officers involved in an incident to protect one or more of them from criminal prosecution
11 or administrative discipline; (4) the performance of sham or deficient investigations of
12 allegations of deputy misconduct designed to allow officers' misconduct to escape
13 detection by superiors and/or superiors who guide or shape the investigation to support a
14 result exonerating the involved officers; (5) the planting of evidence or withholding
15 evidence to favor the involved officers' version of a disputed and complained of incident
16 of police misconduct; (6) the ratification of misconduct to avoid referral for criminal
17 prosecution, and (7) the public denial or minimization of rampant problems of dishonesty
18 and brutality within the VPD.

19
20
21
22
23 98. Plaintiff is informed, believes and based thereon alleges that Defendants CITY,
24 VPD, CORNEY and DOES knew, or in the exercise of reasonable care should have
25 known prior to December 25, 2011, that VPD officers, including Defendants KELLY,
26 KLINE, and OFFICER DOES, were engaging in the conduct described hereinabove.
27
28

1 99. Plaintiff is informed, believes and based thereon alleges that Defendants CITY,
2 VPD, CORNEY and DOES knew, or in the exercise of reasonable care should have
3 known prior to December 25, 2011, that VPD officers, including Defendants
4 DEFENDANTS KELLY, KLINE, and OFFICER DOES, had a history, propensity,
5 pattern and practice of adhering to the unlawful and unconstitutional police actions
6 described herein and above.
7

8
9 100. Plaintiff is informed, believes and based thereon alleges that Defendants
10 KELLY, KLINE, and OFFICER DOES were the subject of prior complaints of
11 allegations of similar conduct, had been the subject of administrative proceedings and had
12 also been defendants in federal and state courts wherein other plaintiffs alleged violations
13 of constitutional rights by Defendants in the course and scope of their employment as
14 VPD officers and under color of law. Specifically, in December 2005, Defendant
15 KELLY was named as a defendant in the matter of *Brandon v. City of Ventura, et al.*, filed
16 in the Superior Court of California, Ventura County, Case No. CIV 236657, which
17 alleged excessive use of force by Defendant KELLY while he was acting as a VPD
18 officer. Similarly, in January 2012, Defendant KLINE was named as a defendant in the
19 matter of *Gonzalez v. City of Ventura, et al.*, filed in the United States District Court,
20 Central District of California, Case No. CV11-03916 GAF (MRWx) which alleged
21 excessive use of force by Defendant KLINE while he was acting as a VPD officer.
22

23
24 101. Notwithstanding this information and the history of VPD officers including
25 Defendants KELLY, KLINE, and OFFICER DOES, Plaintiff is informed, believes and
26
27
28

1 based thereon alleges that Defendants CITY, VPD, CORNEY, and DOES failed to
2 properly screen applicants and hired persons who were psychologically unfit for duty,
3 used unreasonable police tactics which lead to the constitutional violations of Plaintiff
4 FIELDS' constitutional rights as alleged herein and above.

5
6 102. Plaintiff is informed, believes and based thereon alleges that Defendants CITY,
7 VPD, CORNEY and DOES generally failed to train and supervise VPD officers,
8 including Defendants KELLY, KLINE, and OFFICER DOES, in order to halt and
9 prevent the type of conduct which resulted in violating Plaintiff FIELDS' constitutional
10 rights.
11

12
13 103. Plaintiff is informed, believes and based thereon alleges that Defendants CITY,
14 VPD, CORNEY and DOES have customs, policies or practices which reject and ignore
15 misconduct of VPD officers and fail to impose discipline. As a result, the custom,
16 practice or policy results in the retention of officers such as Defendants
17 KELLY, KLINE, and OFFICER DOES who have a propensity to cause constitutional
18 violations such as use of excessive force, unreasonable seizure, liberty deprivations and
19 falsification of evidence. This failure to discipline condones, ratifies, promotes and
20 perpetuates VPD officers' misconduct and their "code of silence" and was a moving force
21 behind the violations of Plaintiff FIELDS' constitutional rights. The above-referenced
22 civil lawsuits against Defendants KELLY and KLINE demonstrate Defendants CITY,
23 VPD, CORNEY and DOES' failure to train and discipline their officers.
24

25
26
27 104. The policy maker and supervisor for the VPD officers at the time of the incident
28

1 was Defendant CORNEY. As such, he had the duty to hire, train, supervise and
2 discipline VPD officers who cause constitutional violations. Defendant CORNEY
3 created an unreasonable risk of harm to Plaintiff FIELDS by failing to adequately hire,
4 train, supervise and discipline VPD officers, in particular, Defendants KELLY, KLINE,
5 and OFFICER DOES. CORNEY had an additional duty to make and maintain customs,
6 policies, practices and/or procedures which address and cure the problems of use of
7 excessive force and causing unreasonable seizures and liberty deprivations committed by
8 VPD officers. Rather than creating or maintaining such customs, policies, practices
9 and/or procedures, Defendant CORNEY created an unreasonable risk of harm to Plaintiff
10 FIELDS by condoning and having a deliberate indifference towards citizens'
11 constitutional rights in connection with excessive use of force, unreasonable seizure and
12 the deprivation of liberty by VPD officers, in particular, Defendants KELLY, KLINE,
13 and OFFICER DOES.

14 105. Plaintiff is informed, believes and based thereon alleges that Defendants CITY,
15 VPD, CORNEY and DOES expressly or tacitly encouraged, ratified, and/or approved of
16 the acts and/or omissions alleged herein, and knew that such conduct was unjustified and
17 would result in violations of Plaintiff FIELDS' constitutional rights.

18 106. As a result of the foregoing, Plaintiff FIELDS was subjected to physical, emotional
19 and financial injuries that were a direct and proximate result of Defendants' failure to
20 maintain customs, policies, practices or procedures designed to protect the constitutional
21 rights of the public.

1 107. The above described customs, policies, practices and/or procedures demonstrates a
 2 deliberate indifference on the part of the policy makers of CITY to the constitutional
 3 rights of persons within CITY and were a moving force behind the violations of Plaintiff
 4 FIELDS' rights alleged herein.
 5

6 108. Defendants CITY, VPD and CORNEY expressly or tacitly encouraged, ratified,
 7 and/or approved of the acts and/or omissions of Defendants KELLY, KLINE, and
 8 OFFICER DOES alleged herein, and knew that such conduct was unjustified and would
 9 result in violations of Plaintiff FIELDS' constitutional rights.
 10

11 FOURTH CLAIM FOR RELIEF

12 Assault

13 Plaintiff FIELDS Against All Defendants and DOES

14 109. Plaintiffs incorporate by reference and reallege each and every allegation
 15 contained in paragraphs 1 through 77 of this Complaint, as fully set forth herein *verbatim*.
 16

17 110. Plaintiff FIELDS brings this cause of action as against all Defendants and DOES.
 18

19 111.. The conduct of Defendants KELLY, KLINE, and OFFICER DOES caused
 20 Plaintiff FIELDS to reasonably believe that he was about to be touched in a harmful
 21 and/or offensive manner.
 22

23 112. Plaintiff FIELDS did not consent to the conduct of any Defendant.
 24

25 113. Plaintiff FIELDS was harmed by the conduct of Defendants KELLY, KLINE, and
 26 OFFICER DOES.

27 114. Plaintiff is informed, believes, and based thereon alleges that in engaging in the
 28

1 conduct alleged herein, Defendants KELLY, KLINE and OFFICER DOES acted with the
2 intent to injure, vex, annoy and harass Plaintiff FIELDS, and subjected Plaintiff FIELDS
3 to cruel and unjust hardship in conscious disregard of Plaintiff FIELDS' rights with the
4 intention of causing Plaintiff FIELDS injury and depriving him of his constitutional
5 rights.
6

7
8 115. As a result of the foregoing, Plaintiff FIELDS seeks exemplary and punitive
9 damages against Defendants KELLY, KLINE and OFFICER DOES.

10 116. Defendants CITY, VPD and CORNEY and DOES are liable under Cal.
11 Government Code § 815.2(a) and the doctrine of *respondeat superior* for the wrongful
12 actions of their employees and agents, including but not limited to Defendants KELLY,
13 KLINE, and OFFICER DOES.
14

15 **FIFTH CLAIM FOR RELIEF**

16 **Battery**

17 **Plaintiff FIELDS Against All Defendants and DOES**

18
19 117. Plaintiffs incorporate by reference and reallege each and every allegation
20 contained in paragraphs 1 through 77 of this Complaint, as fully set forth herein *verbatim*.
21

22 118. Plaintiff FIELDS brings this cause of action as against all Defendants and DOES
23 and their routine failure to secure search warrants before entering homes without consent
24 and without exigent circumstances justifying entry.
25

26 119. Defendants KELLY, KLINE, and OFFICER DOES intentionally performed acts
27 that resulted in harmful and/or offensive contacts with Plaintiff FIELDS' person.
28

1 120. Defendants KELLY, KLINE, and OFFICER DOES harmful and/or offensive
2 contact caused injury, damage, loss and harm to Plaintiff FIELDS.

3
4 121. Plaintiff is informed, believes, and based thereon alleges that in engaging in the
5 conduct alleged herein, Defendants KELLY, KLINE and OFFICER DOES acted with the
6 intent to injure, vex, annoy and harass Plaintiff FIELDS, and subjected Plaintiff FIELDS
7 to cruel and unjust hardship in conscious disregard of Plaintiff FIELDS' rights with the
8 intention of causing Plaintiff FIELDS injury and depriving him of his constitutional
9 rights.
10

11 122. As a result of the foregoing, Plaintiff FIELDS seeks exemplary and punitive
12 damages against Defendants KELLY, KLINE and OFFICER DOES.

13
14 123. Defendant CITY, VPD and CORNEY and DOES are liable under Cal.
15 Government Code § 815.2(a) and the doctrine of *respondeat superior* for the wrongful
16 actions of their employees and agents, including but not limited to Defendants KELLY,
17 KLINE, and OFFICER DOES.
18

19 ///

20
21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

SIXTH CLAIM FOR RELIEF

California Civil Code § 52.1

Interference with Exercise of Civil Rights by Excessive Force and
Unreasonable Arrest and Detention

Plaintiff FIELDS Against All Defendants and DOES

124. Plaintiffs incorporate by reference and reallege each and every allegation contained in paragraphs 1 through 77 of this Complaint, as fully set forth herein *verbatim*.

125. Plaintiff FIELDS brings this cause of action as against all Defendants and DOES.

126. As alleged above, the conduct of the Defendants violated Plaintiff FIELDS' right to be secure in his person and effects, against unreasonable searches and seizures, and to due process of law, as guaranteed by the Constitution and laws of the State of California, including Article I, § 1, 13 of the California Constitution, and the Fourth and Fourteenth Amendments of the United States Constitution.

127. Plaintiff is informed, believes, and based thereon alleges that in engaging in the conduct alleged herein, Defendants KELLY, KLINE and OFFICER DOES acted with the intent to injure, vex, annoy and harass Plaintiff FIELDS, and subjected Plaintiff FIELDS to cruel and unjust hardship in conscious disregard of Plaintiff FIELDS' rights with the intention of causing Plaintiff FIELDS injury and depriving him of his constitutional rights.

128. As a result of the foregoing, Plaintiff FIELDS seeks exemplary and punitive damages against Defendants KELLY, KLINE and OFFICER DOES.

1 129. As a direct and proximate cause of the aforementioned actions of Defendants and
2 DOES, Plaintiff FIELDS was injured as set forth above, thereby entitling Plaintiff to
3 damages against Defendants under Cal. Civil Code § 52.1, including but not limited to
4 actual damages, exemplary damages, civil penalties, and attorney's fees.
5

6 **SEVENTH CLAIM FOR RELIEF**

7 **Negligent Infliction of Emotional Distress**

8 **Plaintiff FIELDS Against All Defendants and DOES**

9
10 130. Plaintiffs incorporate by reference and reallege each and every allegation
11 contained in paragraphs 1 through 77 of this Complaint, as fully set forth herein *verbatim*.
12

13
14 131. Plaintiff FIELDS brings this cause of action as against all Defendants and DOES.

15 132. Plaintiffs are informed, believe and based thereon allege that each Defendant
16 officer was negligent in striking, using force upon, harming and injuring Plaintiff
17 FIELDS and in doing or failing to do the other wrongful acts herein and above alleged.
18

19 133. Plaintiffs are informed, believe and based thereon allege that each Defendant
20 Deputy negligently inflicted emotional distress on Plaintiff FIELDS by, *inter alia*, using
21 excessive force on Plaintiff FIELDS.
22

23 134. As a direct and proximate result of the aforementioned concurrent and
24 simultaneous negligent conduct of the Defendants KELLY, KLINE and OFFICER
25 DOES, and each of them, Plaintiff FIELDS suffered serious emotional distress and the
26 exacerbation of emotional distress.
27
28

1 135. The negligence of Defendants KELLY, KLINE and OFFICER DOES, and each of
 2 them, was a substantial factor in causing or exacerbating Plaintiff FIELDS' serious
 3 emotional distress, causing Plaintiff FIELDS to incur special and general damages in an
 4 amount to be proved at the time of trial.

6 136. Defendants CITY, VPD, CORNEY and DOES, inclusive, and each of them, which
 7 employed the defendant officers, is vicariously liable under principles of *respondeat*
 8 *superior* and the California Government Code § 815.2, for the acts and omissions of
 9 Defendants KELLY, KLINE and OFFICER DOES, and said entity defendants are jointly
 10 and severally liable for Plaintiff FIELDS' special and general damages.

13 EIGHTH CLAIM FOR RELIEF

14 Intentional Infliction of Emotional Distress

15 Plaintiff FIELDS Against All Defendants and DOES

16
 17 137. Plaintiffs incorporate by reference and reallege each and every allegation
 18 contained in paragraphs 1 through 77 of this Complaint, as fully set forth herein *verbatim*.

19 138. Plaintiff FIELDS brings this cause of action as against all Defendants and DOES.

20
 21 139. The conduct of the Defendants KELLY, KLINE and OFFICER DOES, and each
 22 of them, alleged herein and above, *inter alia*, in beating on and tasing and otherwise
 23 causing Plaintiff FIELDS significant physical injury, who was not threatening any of the
 24 officers in any way, was outrageous conduct that exceeded reason and the bounds of
 25 conduct usually tolerated by this society.

26
 27 140. Defendants KELLY, KLINE and OFFICER DOES, and each of them, in engaging
 28

1 in the aforementioned conduct, intended to cause Plaintiff FIELDS emotional distress
2 and/or acted with reckless disregard of the probability that Plaintiff FIELDS would suffer
3 emotional distress or an exacerbation of emotional distress, knowing that Plaintiff
4 FIELDS was present when the conduct occurred.
5

6 141. The conduct of Defendants KELLY, KLINE and OFFICER DOES, and each of
7 them, was the direct and proximate cause of Plaintiff FIELDS' injuries, and were a
8 substantial factor in exacerbating or causing Plaintiff FIELDS to suffer and to continue to
9 suffer from severe emotional distress, mental pain, anguish, embarrassment, humiliation,
10 and psychological disturbance.
11

12 142. Plaintiff FIELDS has suffered special and general damages as a result of the
13 emotional distress, mental pain, anguish, embarrassment, humiliation and psychological
14 disturbance in an amount according to proof at trial in excess of this Court's jurisdiction.
15

16 143. Defendants CITY, VPD, CORNEY and DOES, inclusive, and each of them, which
17 employed the defendant officers, is vicariously liable under principles of *respondeat*
18 *superior* and the California Government Code § 815.2, for the acts and omissions of ...
19 Defendants KELLY, KLINE and OFFICER DOES, and said entity defendants are jointly
20 and severally liable for Plaintiff FIELDS' special and general damages.
21

22 144. The aforementioned acts of Defendants KELLY, KLINE and OFFICER DOES,
23 and each of them, were despicable and subjected Plaintiff FIELDS to cruel and unjust
24 hardship, and indicate Defendants' intent to cause injury to Plaintiff FIELDS, as well as
25 their conscious disregard for the rights and safety of Plaintiff FIELDS, and tend to show
26
27
28

1 that the actions were willful, wanton, malicious, and oppressive, thereby justifying an
 2 award of exemplary and punitive damages as to said individual Defendants.

3
 4 NINTH CLAIM FOR RELIEF

5 42 U.S.C. § 1983

6 (4th and 14th Amendments - Warrantless Entry into Home)

7 Plaintiff ALVARADO Against Defendants KELLY, KLINE AND OFFICER DOES

8
 9 145. Plaintiffs incorporate by reference and reallege each and every allegation
 10 contained in paragraphs 1 through 77 of this Complaint, as fully set forth herein *verbatim*.

11 146. Plaintiffs bring this cause of action under 42 U.S.C. § 1983, as against Defendants
 12 KELLY, KLINE AND OFFICER DOES.

13
 14 147. As alleged above, the conduct of Defendants KELLY, KLINE AND OFFICER
 15 DOES, specifically including, but not limited to, Defendants KELLY, KLINE AND
 16 OFFICER DOES' entering into Plaintiff ALVARADO's home without a warrant or other
 17 reasonable cause, violated Plaintiff ALVARADO's rights to be secure in her home,
 18 person and effects, against unreasonable searches and seizures, and to due process of law,
 19 as guaranteed by the U.S. Constitution and the Fourth and Fourteenth Amendments of the
 20 U.S. Constitution.
 21

22
 23 148. As a direct and proximate result of Defendants KELLY, KLINE AND OFFICER
 24 DOES' wrongful conduct described hereinabove, Plaintiff ALVARADO suffered
 25 emotional and financial injuries, including damages to her property.

26
 27 149. Plaintiff ALVARADO has suffered special and general damages as allowable
 28

1 under federal law in an amount to be proven at trial.

2 150. Plaintiff ALVARADO is informed, believes and based thereon alleges that, in
3
4 engaging in the conduct alleged herein, Defendants KELLY, KLINE AND OFFICER
5 DOES: (a) acted with the intent to injure, vex, annoy and harass Plaintiff, and (b)
6 subjected Plaintiff to cruel and unjust hardship in conscious disregard of her rights with
7
8 the intention on the part of the Defendants of thereby depriving her of her legal rights and
9 otherwise causing Plaintiff injury.

10 151. As a result of the foregoing, Plaintiff seeks exemplary and punitive damages
11
12 against Defendants KELLY, KLINE AND OFFICER DOES, as well as an award of
13 reasonable attorney's fees and costs according to proof, pursuant to 42 U.S.C. §1988.

14 TENTH CLAIM FOR RELIEF

15 *Monell Related Claims on 42 U.S.C. § 1983 Claims*

16
17 **Plaintiff ALVARADO Against Defendants CITY, VPD, CHIEF CORNEY and DOES.**

18 152. Plaintiffs incorporate by reference and reallege each and every allegation
19
20 contained in paragraphs 1 through 77 of this Complaint, as fully set forth herein *verbatim*.

21 153. Plaintiffs bring this cause of action under 42 U.S.C. § 1983, as against Defendants
22 CITY, VPD and DOES.

23 154. The actions and omissions of Defendants KELLY, KLINE and OFFICER DOES
24
25 alleged above were a direct and proximate cause of the constitutional injuries suffered by
26 Plaintiff ALVARADO.

27 155. Defendants KELLY, KLINE and OFFICER DOES' violations of Plaintiff's rights
28

1 to be free from warrantless entry, trespass and invasions of her privacy, as set forth
2 herein, were the direct and proximate results of Defendants CITY, VPD and DOES'
3 tolerating and maintaining longstanding customs, policies, practices and/or procedures,
4 set forth herein below.

6 156. These longstanding customs, policies, practices and/or procedures, include, but are
7 not limited to, Defendants CITY, VPD and DOES' standard operating procedures.

9 157. Defendants CITY, VPD and DOES' customs, policies, practices and/or
10 procedures create and allow for, *inter alia*, an ongoing pattern by all Defendants of
11 condoning and having a deliberate indifference towards citizens' constitutional rights,
12 specifically in connection with Defendants KELLY, KLINE and OFFICER DOES'
13 violations of Plaintiff ALVARADO's rights to be free from warrantless entry, trespass
14 and invasions of her privacy.

16 158. Defendants CITY, VPD and DOES' customs, policies, practices and/or
17 procedures create and allow for, *inter alia*, a failure by Defendants CITY, VPD and
18 DOES to adequately train, supervise, discipline, screen and hire police officers in
19 connection with citizens' constitutional rights relating to warrantless entry and trespass,
20 so as to cause Defendants KELLY, KLINE and OFFICER DOES' violations of those
21 rights.

24 159. The policy maker for the officers of Defendants CITY and VPD at the time of the
25 incident was Defendant CORNEY. As policy maker, Defendant CORNEY had the duty
26 to make and maintain customs, policies, practices and/or procedures which address and
27
28

1 cure the problems of as well as provide adequate training, supervision, discipline,
2 screening and hiring of police officers to prevent against the problems of warrantless
3 entry and trespass. Rather than making and maintaining these customs, policies, practices
4 and/or procedures, Defendant CORNEY created an unreasonable risk of harm to Plaintiff
5 ALVARADO by having a deliberate indifference toward those constitutional rights.
6

7
8 160. The above described customs, policies, practices and/or procedures demonstrate a
9 deliberate indifference on the part of the policy makers of Defendants CITY, VPD and
10 DOES to the constitutional rights of persons within the City of Ventura and were the
11 cause of the violations of Plaintiff ALVARADO's rights alleged herein.
12

13 161. Defendants CITY, VPD and DOES expressly or tacitly encouraged, ratified,
14 condoned and/or approved of the acts and/or omissions of Defendants KELLY, KLINE
15 and OFFICER DOES alleged herein, and knew that such conduct was unjustified and
16 would result in violations of Plaintiff ALVARADO's constitutional rights.
17

18 162. As a direct and proximate result of Defendants CITY, VPD and DOES' wrongful
19 conduct alleged herein and above, Plaintiff was subjected to injuries and is therefore
20 entitled to recover damages. Plaintiff also seeks attorneys' fees and costs against
21 Defendants CITY, VPD and DOES.
22

23 ///

24 ///

25 ///

26 ///

27 ///

ELEVENTH CLAIM FOR RELIEF

Trespass

Plaintiff ALVARADO Against All Defendants and DOES

163. Plaintiffs repeat and re-allege each and every allegation contained in 1 through 77 of this Complaint, as fully set forth herein.

164. Plaintiff ALVARADO brings this cause of action for Trespass as against all Defendants and DOES.

165. As set forth above, Defendants KELLY, KLINE AND OFFICER DOES wrongfully entered the Plaintiff ALVARADO's residence without a warrant, without consent, and without exigent circumstances justifying entry. Furthermore, they smashed in the front door and caused significant damage to the interior of the residence without cause. They also rummaged through Plaintiff ALVARADO's bedroom, her child's bedroom, and her personal belongings.

166. As a direct and proximate result of the trespass by Defendants as described above, Plaintiff ALVARADO's home was damaged and needed significant repairs. As a further direct and proximate result of the trespass by Defendants as described above, Plaintiff ALVARADO has experienced extreme mental anguish and physical suffering, and has been damaged in an amount to be proven at trial.

167. Defendants CITY, VPD, CORNEY and DOES, inclusive, and each of them, which employed the defendant officers, are vicariously liable under principles of *respondeat superior* and the California Government Code § 815.2, for the acts and omissions of

1 Defendants KELLY, KLINE and OFFICER DOES, and said entity defendants are jointly
2 and severally liable for Plaintiff ALVARADO's special and general damages.

3
4 168. The conduct of Defendants KELLY, KLINE AND OFFICER DOES, as alleged
5 herein, was deliberate, malicious and despicable and reflects a conscious and/or reckless
6 disregard of the rights and interest of Plaintiff ALVARADO, thereby entitling her to
7 exemplary and punitive damages.
8

9 **TWELFTH CLAIM FOR RELIEF**

10 **Negligence**

11 **Plaintiff ALVARADO Against All Defendants and DOES**

12
13 169. Plaintiffs incorporate by reference and reallege each and every allegation
14 contained in paragraphs 1 through 77 of this Complaint, as fully set forth herein *verbatim*.

15
16 170. Plaintiff ALVARADO brings this cause of action as against all Defendants and
17 DOES.

18 171. On or about the dates, time and places alleged herein, Defendants and DOES were
19 charged with the duty to protect and serve the citizens of Ventura, including Plaintiffs,
20 and to ensure their safety. Plaintiffs are informed and believe that Defendants and DOES
21 had received training as police officers to use good judgment and use sound and
22 reasonable police practices toward that end. Defendants also owed the public, including
23 Plaintiffs, the duty not to cause harm.
24
25

26 172. Defendants, and each of them, breached these duties by entering Plaintiff
27 ALVARADO's residence without a warrant or exigent circumstances, trespassing and
28

1 causing damage to Plaintiff ALVARADO's property.

2 173. As a direct and proximate result of all Defendants' negligent acts and/or omissions,
3
4 herein above described, Plaintiff ALVARADO suffered mental anguish, distress, and
5 property damage.

6 174. Defendants CITY, VPD, CORNEY AND DOES are negligent and breached their
7
8 duties of care by, *inter alia*, failing to discharge mandatory duties imposed by an
9 enactment designed to protect against the risk of a particular kind of injury in violation of
10 California Government Code § 815.6.

11 175. Defendants CITY, VPD, CORNEY AND DOES are further liable under Cal.
12 Government Code § 815.2(a) and the doctrine of *respondeat superior* for the wrongful
13 actions of their employees and agents, including but not limited to Defendants KELLY,
14
15 KLINE and OFFICER DOES.

16 THIRTEENTH CLAIM FOR RELIEF

17 Invasion of Privacy (California Constitution, Art. I, Section 1)

18 Plaintiff ALVARADO Against All Defendants and DOES

19
20
21 176. Plaintiffs incorporate by reference and reallege each and every allegation
22 contained in paragraphs 1 through 77 of this Complaint, as fully set forth herein *verbatim*.

23 177. Article I section 1 of the California Constitution guarantees an inalienable right of
24 privacy. Civil liability under the California Constitution for a violation of the right of
25 privacy is authorized by *Hill v. National Collegiate Athletic Assn.* (1994) 7 Cal. 4th 1.

26 178. PLAINTIFF ALVARADO had a legally protected privacy interest and reasonable
27
28

1 expectation of privacy in her home, papers, and personal effects.

2 179. Defendants violated PLAINTIFF ALVARADO's privacy interest in her home,
3 papers, and personal effects, by, among other things, conducting an unlawful search
4 thereof on December 25, 2011, in her absence, without consent, without a search warrant
5 and without advance notice.
6

7 180. Defendants' violations of PLAINTIFF ALVARADO's privacy including, without
8 limitation, the search conducted on December 25, 2011 caused damage to PLAINTIFF
9 ALVARADO's privacy interests, and other consequential, incidental and general damage
10 according to proof.
11

12 181. The violation of PLAINTIFF ALVARADO's right of privacy alleged herein was
13 malicious, oppressive, and fraudulent and therefore warrants an award of exemplary
14 damages against the individual.
15

16
17 **PRAYER FOR RELIEF**

18 Wherefore, Plaintiffs pray for judgment against Defendants and DOES, and each
19 of them, on each and every cause of action as follows:
20

- 21 1. For declaratory and injunctive relief preventing similar future harm;
- 22 2. For general damages according to proof at trial;
- 23 3. For special damages according to proof at trial;
- 24 4. For an award of punitive damages against Defendants KELLY, KLINE and
25 OFFICER DOES;
- 26 5. For attorney's fees and costs under 42 U.S.C. § 1988, C.C.P. § 1021.5, or under
27
28

1 any other applicable statutes or law;

2 6. For an award of Plaintiffs' costs of suit incurred herein;

3 7. For an award of any applicable statutory penalties;

4 8. For an award of any applicable interest amounts; and

5 9. For any other relief the Court deems appropriate.

6
7 Dated: July 27, 2012

8 LAW OFFICES OF BRIAN A. VOGEL, PC

9
10 By: Brian Vogel

11 BRIAN A. VOGEL

12 Attorney for Plaintiff DENNY D. FIELDS and

13 Plaintiff ALETHIA M. ALVARADO

14
15 DEMAND FOR JURY TRIAL

16
17
18 Plaintiff hereby demands a jury trial.

19
20
21 Dated: July 27, 2012

22 LAW OFFICES OF BRIAN A. VOGEL, PC

23
24 By: Brian Vogel

25 BRIAN A. VOGEL

26 Attorney for Plaintiff DENNY D. FIELDS and

27 Plaintiff ALETHIA M. ALVARADO

Case 2:12-cv-06739-GAF-MRW Document 1
BRIAN A. VOGEL (SBN 167413)
EMAIL: brian@bvogel.com
THE LAW OFFICES OF BRIAN A. VOGEL, PC
770 County Square Dr., Ste. 104
Ventura, CA 93003
Phone: (805) 654-0400
Fax: (805) 654-0326

ORIGINAL

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DENNY D. FIELDS, an individual, and ALETHIA
M. ALVARADO, an individual,

Plaintiff(s)

v.

CITY OF SAN BUENAVENTURA; SAN
BUENAVENTURA POLICE DEPARTMENT;
POLICE CHIEF KEN CORNEY, an individual;
OFFICER CRAIG KELLY, an individual, OFFICER
JOEL KLINE, an individual, and DOES 1-10,
inclusive,

Defendant(s)

CASE NUMBER

CV12-6739 - GAF (MRW)

SUMMONS

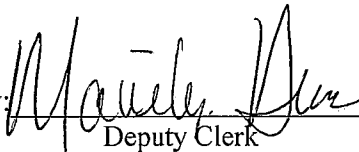
TO: CITY OF SAN BUENAVENTURA; SAN BUENAVENTURA POLICE DEPARTMENT; POLICE
CHIEF KEN CORNEY, an individual; OFFICER CRAIG KELLY, an individual, OFFICER JOEL KLINE, an
individual, and DOES 1-10, inclusive,

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you
must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint
counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer
or motion must be served on the plaintiff's attorney, Brian A. Vogel, Law Offices of Brian A. Vogel, whose
address is 770 County Square Drive, Suite 104, Ventura, CA 93003. If you fail to do so, judgment by default
will be entered against you for the relief demanded in the complaint. You also must file your answer or motion
with the court.

Clerk, U.S. District Court

Dated: By: AUG - 6 2012

By: 
Deputy Clerk

(Seal of the Court)

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

COPY

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> Denny D. Fields, an individual and Alethia M. Alvarado, an individual	DEFENDANTS City of San Buenaventura; San Buenaventura Police Department; Police Chief Ken Corney, an individual, Officer Craig Kelly, an individual; Officer Joel Kline, an individual, and DOES 1-10, inclusive,
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Brian A. Vogel, The Law Offices of Brian A. Vogel, 770 County Square Drive, Suite 104, Ventura, California 93003 (805) 654-0400	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;">PTF <input type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:47%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%;">PTF <input type="checkbox"/> 4</td> <td style="width:10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4														
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. ORIGIN (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
--

V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.) CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> MONEY DEMANDED IN COMPLAINT: \$ _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 42 USC § 1983 4th and 14th Am. Excessive Use of Force, False Arrest, Molest, Assault/Battery, Warrantless Entry
--

VII. NATURE OF SUIT (Place an X in one box only.)
--

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainees <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage-Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
---	--	---	--	---	---

CV12-6739

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Denny D. Fields, an individual, Ventura Alethia M. Alvarado, an individual, Ventura	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
☒ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
City of San Buenaventura; Ventura; San Buenaventura Police Department, Ventura; Police Chief Ken Comey, unknown; Officer Craig Kelly, unknown; Officer Joel Kline, unknown.	

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Ventura	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Brian Vogel

Date

7/27/12

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))